

AMENDMENTS TO THE CLAIMS

1. (Currently Amended) An isolated DNA encoding a variant of the protein of SEQ ID NO: ~~[[4]]~~ 5, having substantially the same insecticidal activity as the protein of SEQ ID NO: ~~[[4]]~~ 5, or an insecticidally-effective fragment thereof, ~~wherein said which variant comprises an amino acid sequence by a DNA hybridizes hybridizing~~ under stringent hybridization conditions to the DNA of SEQ ID NO:4 from nucleotide position 797 to nucleotide position 2641, and wherein said stringent hybridization conditions are established as follows using the following consecutive steps:

- a. immobilizing DNA fragments on a filter;
- b. prehybridizing said filter for 1 to 2 hours at 42°C in 50% formamide, 5 X SSPE, 2 X Denhardt's reagent and 0.1% SDS, or for 1 to 2 hours at 68°C in 6 X SSC, 2 X Denhardt's reagent and 0.1 % SDS;
- c. adding a hybridization probe, which has been radiolabeled;
- d. incubating for 16 to 24 hours;
- e. washing said filter for 20 minutes at room temperature in 1 X SSC, 0.1% SDS;
- f. washing said filter three times for 20 minutes each at 68°C in 0.2 X SSC, 0.1 % SDS; and
- g. autoradiographing said filter by exposing said filter for 24 to 48 hours to X-ray film at -70°C with an intensifying screen; ~~and~~

~~wherein said DNA comprises the nucleotide sequence of SEQ ID NO:2 from nucleotide position 198 to nucleotide position 1561, and the nucleotide sequence of SEQ ID NO:3 from nucleotide position 1 to nucleotide position 1145, or a degenerate DNA sequence thereof, wherein one or more amino acid codons have been replaced with others without changing the amino acid sequence of the protein.~~

2. (Currently Amended) ~~An~~ The isolated DNA ~~encoding a~~ of claim 1, wherein said protein ~~variant has~~ with insecticidal activity against an insect selected from the group consisting of *Spodoptera exigua*, *Spodoptera littoralis*, *Spodoptera frugiperda*, *Agrotis ipsilon*, *Mamestra brassica*, *Heliothis virescens*, *Ostrinia nubilalis*, and *Plutella xylostella*, and wherein said DNA comprises the nucleotide sequence of SEQ ID NO:2 from nucleotide position 198 to nucleotide position 1561 or a degenerate DNA sequence thereof wherein one or more amino acid codons have been replaced with others without changing the amino acid sequence of the protein.

3. (Currently Amended) ~~An~~ The isolated DNA of claim 1 and 2, ~~encoding a protein with insecticidal activity against an insect selected from the group consisting of~~ *Spodoptera exigua*, *Spodoptera littoralis*, *Spodoptera frugiperda*, *Agrotis ipsilon*, *Mamestra brassica*, *Heliothis virescens*, *Ostrinia nubilalis*, and *Plutella xylostella*, wherein said DNA comprises the nucleotide sequence of SEQ ID NO:3 from nucleotide position 1 to nucleotide position 1145 or a degenerate DNA sequence thereof, wherein one or more amino acid codons have been replaced with others without changing the amino acid sequence of the protein wherein said DNA comprises the nucleotide sequence of SEQ ID NO:2 from nucleotide position 198 to nucleotide position 1561, and the nucleotide sequence of SEQ ID NO:3 from nucleotide position 1 to nucleotide position 1145, or a degenerate DNA sequence thereof, wherein one or more amino acid codons have been replaced with others without changing the amino acid sequence of the protein.

4. (Withdrawn) A protein encoded by the DNA of any one of claims 1 to 3.